

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BRYAN BLACK,
Petitioner,
v.
UNITED STATES OF AMERICA,
Respondent.

)
) CASE NO. 3:06-0249
) (CRIMINAL CASE
) NO. 3:03-00182)
) JUDGE ECHOLS
)

ORDER

For the reasons set forth in the Memorandum issued contemporaneously herewith, Petitioner Bryan Black's "Motion to Vacate, Set Aside, Reverse, or Correct Sentence Pursuant to Title 28 United States Code Section 2255" (Docket Entry No. 1) is hereby DENIED. This case is hereby DISMISSED WITH PREJUDICE.

Further, a Certificate of Appealability will not issue. See Slack v. McDaniel, 529 U.S. 473, 483-84 (2000). Petitioner cannot demonstrate that reasonable jurists would find the Court's assessment of Petitioner's claim of ineffective assistance of counsel debatable or wrong since Petitioner was informed of his right to appeal but Petitioner never evidenced any desire to have his case appealed. Nor would a reasonable jurist find the Court's assessment of Petitioner's claim under the Sentencing Guidelines debatable or wrong since a weapons enhancement under § 2D1.1(b)(1) need not be charged by a grand jury nor proven beyond a reasonable doubt.

It is so ORDERED.



ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE